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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,771	04/30/2001	Gideon Fostick	Q63730	1088

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

EXAMINER

GAUTHIER, GERALD

ART UNIT PAPER NUMBER

2614

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/843,771

Applicant(s)

FOSTICK, GIDEON

Examiner

Gerald Gauthier

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claim(s) 6-9 and 11-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergsman et al. (US 5,146,487) in view of Agraharam et al. (US 6,483,899 B2) and in further view of Mahr (US 6,956,831 B1).

Regarding **claim(s) 6, 9, 12, 13 and 15**, Bergsman discloses a system for enabling a calling party to use voice narration to send a text message to a wireless communications device (FIG. 1 and column 1, lines 7-15) , comprising:

- i. a voice-enabled communications device for composing a voice message (column 1, lines 36-42);
- ii. a call answering system (column 1, lines 36-42); and

iv. an Interactive Voice Response System for selecting a pre-prepared message from a plurality of available pre-prepared messages (column 1, lines 43-57);

wherein said CAS provides the message, including the pre-prepared message and said message (column 4, lines 52-64).

Bergsman discloses a compose message from a caller but fails to disclose an automatic voice recognition server for converting a voice message to a text message.

However, Agraharam teaches an Automatic Voice Recognition Server for converting said voice message to converted text, and transferring said converted text to said CAS (column 7, lines 4-19).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bergsman using the teaching of speech recognition service as taught by Agraharam.

This modification of the invention enables the system to convert the voice message into text so that the user would have the advantage of receiving an email message.

Bergsman in combination with Agraharam fail to disclose a plurality of available pre-prepared messages are pre-programmed by a called party.

However, Mahr teaches wherein the plurality of available pre-prepared messages are pre-programmed by a called party (column 7, lines 28-45).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bergsman using the teaching of recording messages by the called party as taught by Mahr.

This modification of the invention enables the system to have a plurality of available pre-prepared messages are pre-programmed by a called party so that the user would have the advantage to identify the caller based on the message.

Regarding **claim(s) 7**, Bergsman in combination with Agraharam and Mahr disclose all the limitations of **claim(s) 7** as stated in **claim(s) 6's** rejection above and furthermore Mahr teaches sending at least one short message service message (column 8, lines 2-11).

Regarding **claim(s) 8 and 11**, Bergsman discloses a system, wherein said pre-prepared message is chosen by a calling party (column 1, lines 43-57).

Regarding **claim(s) 14**, Mahr teaches a method, wherein said non-voice format message is delivered as a SMS message to said user (column 8, lines 2-11).

Response to Arguments


4. Applicant's arguments with respect to **claim(s) 6-9 and 11-15** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539 . The examiner can normally be reached on 8:00 AM to 4:30 PM .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547 . The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system . Status information for published applications may be obtained from either Private PAIR or Public PAIR . Status information for unpublished applications is available through Private PAIR only . For more information about the PAIR system, see <http://pair-direct.uspto.gov> . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) .


GERALD GAUTHIER
PATENT EXAMINER

Gerald Gauthier
Examiner
Art Unit 2645

gg
March 17, 2006